

A summary and notification:

1. Chapter 11, McCoy Motors LLC recently considered the option of Chapter 11. After consulting with several attorney's it is our understanding that this is something that you really have to prepare for and it could take weeks to get ready before you even file. Ace increased McCoy Motors LLC line by \$1 Million dollars 43 days before filing Chapter 11, considering what we have learned we believe this may have been done on purpose not to help McCoy Motors LLC but to help Ace have more customers to collect from and more assets to sell.
2. When Dave Badger was our attorney we asked numerous times both in email and verbally for a motion to be filed to appoint a trustee. We were lead to believe this would happen Mr. Badger even made the comment that the fact Russ Algood cut his son a check from ACE for \$108k 2 days before filing Bankruptcy was probably enough alone to get a Trustee appointed. Below I will paste a few examples of the emails where we believed a Trustee motion would be filed any day.

a. April 4th 2018 email between Badger and Henderson

"Jim:

Please see below re recap of conversation between our clients earlier today. It sounded positive until ACE started shutting off GPS devices this afternoon.

Is Russ Algood someone who will lie to his face to get McCoy to make the payments below and immediately shut down McCoy customer cars through the GPS on the vehicles? It sure looks like it.

I sincerely hope no one is harmed by shutting down the GPS devices without any notice AFTER making an interim good faith deal! I need the GPS devices turned on immediately or I will spend the weekend drafting every pleading I can to shut down ACE by getting a Trustee appointed immediately in the 11 as a precursor to converting to Chapter 7! I don't think that Judge Whitley needs much more reason to appoint a trustee and/or convert the case to Chapter 7 to be liquidated. I can't help having a suspicion that the Insider Creditors debts could not withstand a forensic investigation by a Trustee's accountant.

Dave"

b. April 9th 2018 email from Badger to McCoy

"Rob:

I haven't forgotten you! I've been in court of preparing court orders since last Wednesday through two days from now(WED.). Next project is prepping your case for next hearing re cash collateral and preparing a Motion to Appoint a Chapter 11 Trustee, Convert the case to Chapter 7 or simply dismiss the case, I got a notice by registered mail this morning that McCoy is in default again! Try to stay current on the account to the extent possible. My guess is that ACE is fabricating defaults.

Do you have any info on the Maryland case-name, court, case number? I would like to review that.

Dave"

c. April 13th 218 email from McCoy to Badger

"Last week I sent you the below information, I now believe it even more and that the man who told me had it on good authority, because he just hired John Donaldson (The former Ace CEO/CFO he was the man that testified for Ace) to run one of his companies. So my guess is he got most of his information from Donaldson and that is what he shared with me.

"This part is rumor/ speculation but I was told buy a man who said he tried to buy Ace a few months ago, and he had an in depth conversation with the CEO of Hamilton. Basically he said what it boils down to is Russ signed a piece of paper in December of last year that he shouldn't have signed & Hamilton found out it was untrue & that's what got this ball rolling. He also believes Ace was loaning money to Russ' son's dealership / finance company which was also a violation of the contract with Hamilton. I cannot prove this and will not disclose this mans name without his consent. But given this family's history (Algood Chevrolet & the Cousin whose on payroll Wayne Garland) were convicted of defrauding General Motors, Wayne even went to Federal Prison I know who I believe first."'"

Badger's response to McCoy from above email April 13th 2018

"Sounds like excellent additional "fodder" for a Motion to Appoint a Trustee!

I'll work on it ASAP.

Dave"

d. April 16th 2018 Badger responding to email from McCoy

"Rob:
Your email below is precisely the reason I want a Liquidating Trustee so the Junior Lienholders aren't paid until their "loans" are investigated and determined to be legit! Fat chance of that based on what we know of the company and family history.
Dave"

e. April 20th Badger email to McCoy

“Rob:

Continuation of my prior response from my phone:

It is obvious that you have been taken advantage of by a family of thieves. I am very surprised that you are the only dealer pushing back in this case-must not be any other dealers who are vets!...”

I could go on with more of the same types of emails, but I believe the above supports the fact that why McCoy was lead to believe by who is likely one of the most respected Bankruptcy Attorney's in the state thought it would be no problem to get a Trustee Appointed, however he for some reason never filed the motion.

3. After months of feeling mislead by Mr. Badger we sought other counsel. That is when we brought on Kristin Lang. We met with Ms. Lang and she seemed to be fully on board, her biggest question seemed to be why Mr. Badger never filed any motions. A question no one seems to have the answer to even today.
 - a. Ms. Lang seemed to be a hard worker at first, however we had court and responses due on July 11th 2018. McCoy did not understand you had to answer all the questions so we did a summary response. McCoy also did not understand about giving the responses to opposing counsel (which is why we had at this point retained two attorneys). So when we went to court on 7/11/18 we thought we were prepared, Ms. Lang was sick and was not in court on 7/11/18 it was re-scheduled for 7/18/18. Lang and McCoy met at about 7pm on 7/16/18 to prepare the response, we all stayed until 6am the next morning (7/17/18) working on it, however it still wasn't completely done because we had exhibits to attach. I believe everything was electronically sent on the evening of 7/17/18 with court being the next morning.
 - b. On July 30th 2018 Henderson made a motion to find McCoy in contempt.
 - c. We reach out to Ms. Lang several times regarding a few different items, such as a response to the civil contempt motion, request for a jury trial and a motion to hold Ace and Henderson in civil contempt (Henderson based off Robin Milestones testimony Ace was told not to deposit money into the Lang Escrow account by Henderson). No motions were filed and it seemed like one excuse after another from Ms. Lang being sick, to a friend getting hurt, to losing her dog, to her father falling etc... We sincerely hate these things happened, however we still needed to stick to the courts schedule.
 - d. On 8/26/18 Rob McCoy was involved in an ATV accident where a 4 Wheeler landed completely on top of him, badly cutting the top of his eye lid and giving him a concussion. On 8/27/18 this news was given to Ms. Lang along with McCoy had already typed up a response to the contempt motion (just in case Ms. Lang did not type up a response), this response was sent to Ms. Lang on 8/27/18 also, however it looks as if it was never filed. A doctor's note and pictures showing external injuries can be provided.

4. McCoy has some concerns about the previous Preliminary Injunction.
 - a. The court seemed to rely on Ace's statements that McCoy was in default almost immediately after Ace filed Bankruptcy. However, this is not the case as those statements included cars that needed to be paid for but Ace did not have the title (Ace and McCoy had agreed McCoy would not have to pay off a car until Ace had title in hand as Hamilton was holding many of their titles).
 - b. Secondly, ACE employee Robin Milestone testified they never intended to credit McCoy the \$50k for the GAP refunds they just told McCoy that to try and get more money out of him. This type of behavior is why McCoy has wanted a Trustee from the beginning. Because if ACE had been truthful it was lined up with another lender of McCoy's to pay off the remaining titles Ace had in hand. Please keep in mind most of the money due was not from customer payments however it was from customers that had repossessed, so there was a title that ACE was holding as collateral.
 - c. Next, the fact that ACE's advertising contradicted their contract and actions. In layman's terms this is generally called a Bait & Switch.
 - d. After the Judge's order on 8/1/18 went out and because none of McCoy's proposed wording was done Robin Milestone an ACE employee emailed many if not all of the people McCoy borrowed money from almost all who had UCC filing's in front of ACE a copy of the order with the following statement included "Attached is a court for a mutual customer of ours I'm at the lot now trying to get inventory". The order made it seem that ACE was put in front of all the other lenders, this scared them so they all froze McCoy's accounts. We believe this email was sent with nothing but Malice intended.
5. Concerns about opposing counsel Jim Henderson. First, Henderson has made little snide comments like McCoy sells shitty cars (well it was the same ones his client was financing so I'm not sure what that says). Next, Henderson also threatened McCoy in the back room of Judge Whitley's chambers that if McCoy didn't do what he (Henderson) said he was going to jail. This threat was made in front of 3 witnesses and 2 other attorney's (Which McCoy believes violates the FDCPA Act and the FTC ACT). Also, Henderson himself sent out a letter to approximately 125 of ACE / McCoy's customers before the Adversary Proceeding even began that we believe violated Federal Law Section 807(11) of the FDCPA. In fact we know at least one customer reported him to the CFPB and this was an email they received back "The Company has not responded to your complaint. 07/19/2018 Hello, Thank you again for your complaint 180626-3269184 about THE Henderson Law Firm. We expect companies to respond to every complaint within a reasonable amount of time. We forwarded your complaint to the company, unfortunately, they have not responded in full to your complaint and are now late in getting back to you. This is unacceptable, and we regret that you've had to wait this long for a response."

